

Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 26/10/16-28/10/16
Ymweliad â safle a wnaed ar 31/10/16

gan Kay Sheffield BA(Hons) DipTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 16.12.2016

Appeal Decision

Inquiry held on 26/10/16-28/10/16
Site visit made on 31/10/16

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers
Date: 16.12.2016

Appeal Ref: APP/T6905/A/16/3148027

Site address: Land west of Parc Sychnant, Sychnant Pass Road, Conwy

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Beech Developments (NW) Limited against the decision of Conwy County Borough Council.
- The application Ref 0/41960, dated 30/07/2015, was refused by notice dated 05/04/2016.
- The development proposed is for residential development comprising 93 no. dwellings and associated roads and open space.

Decision

1. The appeal is allowed and planning permission is granted for residential development comprising 93 no. dwellings and associated roads and open space at land west of Parc Sychnant, Sychnant Pass Road, Conwy in accordance with the terms of the application, Ref 0/41960, dated 30/07/2015, and the plans submitted with it, subject to the conditions set out in the schedule to the decision.

Procedural Matters

2. It was confirmed at the Inquiry that the application was made in outline with all matters reserved for subsequent approval. The Council had determined the application on that basis and I have similarly determined the appeal.
3. During the course of the appeal the Council withdrew its first reason for refusal which related to the location of the site outside the settlement boundary. However, the Rule 6 Party, the Parc and Llys Sychnant Residents Group (Residents Group), maintained its concerns in this respect.
4. At the time of the Inquiry edition 8 of Planning Policy Wales (PPW) was in force. However it was replaced by the publication of edition 9 on the 17 November 2016 and it is with reference to this edition that I must determine the appeal. The parties were given the opportunity to consider the implications PPW 9 had in respect of the cases already put to me. I have had regard to the comments made in reaching my decision.

Main Issue

5. The main issue is the effect of the development on the local highway network and the safety of its users.

Reasons

6. The appeal site comprises open land currently used for the grazing of horses. It lies outside but adjacent to the western boundary of the settlement as defined in the Conwy Local Development Plan, 2013 (LDP). Sychnant Pass Road bounds the site to the north and the existing residential development of Parc Sychnant to the east. A remnant native hedge and a stream on the western boundary separate the site from open land beyond. There is also open land to the south. The topography of the site generally rises from Sychnant Pass Road to a high point approximately mid-way along the eastern boundary before dropping quite steeply towards the south and east.
7. Whilst submitted in outline, the application was accompanied by an illustrative site layout. Access to the development is shown to be almost central within the site frontage with Sychnant Pass Road from where the main estate road would curve towards and then follow the western site boundary with the dwellings set along internal roads radiating off to the east. The layout includes areas of open space, the largest located in the south eastern corner. Whereas the public footpath along the western boundary could be retained on its existing line, the illustrative layout would require the diversion of the path which crosses the site in an east west direction.

The effect on the local highway network

8. In refusing planning permission the Council considered the development would result in significant highway safety concerns and congestion due to the route between the appeal site and the town centre being of a steep gradient and containing sections of road of narrow width, no or limited width footway and restricted visibility. Although these concerns were echoed by the Residents Group and other interested parties, the Council's officers did not recommend refusal.
9. I walked and drove various permutations of the route between the site and the town centre on several occasions and at different times of the day and in doing so took account of it not being in high season for tourists. I visited sections of the route emphasised in the evidence as part of my accompanied site visit and observed the limitations of the existing highway network which include poor visibility at several road junctions and sections where footways are either absent or of restricted width. Whilst there were concerns with regard to drivers, the main issue was in respect of pedestrians and cyclists and whether, in view of the route they would have to take, future residents of the proposed development would choose to walk or cycle rather than drive; and whether the risks currently faced by existing cyclists and pedestrians would be unacceptably increased by the additional traffic generated by the proposal.
10. The personal injury accident figures provided in evidence confirmed that in the previous 16 years there had been one serious and one minor accident on Sychnant Pass Road between the site and the entry into the town at Upper Gate Street and three at the junction of Mount Pleasant with Town Ditch and Bangor Road. These figures do not include damage only accidents.
11. The Transport Research Laboratory Note 163 states that for every personal injury accident an average of 15.2 non-injury accidents occur, the ratio being higher in urban than in rural areas. The Residents Group and other interested parties recounted several non-injury accidents and near misses and details of recent events were also submitted. Whilst there is no dispute that more accidents than those recorded will have taken place on the route between the site and the town centre, there is no reliable evidence of the non-injury incidents which may have taken place. However,

from the details before me they would appear to be low in number, minor in nature and not as significant as personal injury accidents.

12. Tourist traffic within the town and special events such as the Conwy Food Festival increase the traffic on local roads and the demand for parking. In addition Sychnant Pass Road is part of a recognised diversionary route for traffic on the A55 trunk road when it is closed for accidents or road works. Drivers with knowledge of the local area also use the route in preference to the A55 during peak times. Traffic diverted off the A55 adds to the regular flow into and out of the town centre and can cause significant congestion as described by residents. Whilst increased traffic from the development may potentially lead to increased risk to highway safety, it is generally accepted that when traffic speeds are reduced due to congestion there is less risk to safety. The low accident figures support this.
13. Where on-street parking is permitted it has the potential to restrict the forward visibility of drivers and the flow of traffic. Whilst I observed vacant spaces during my site visits, I accept that there is high demand for on-street parking from both residents and visitors at certain times and I note the recent introduction of a parking permit scheme on Old Road. However, I am satisfied that parked vehicles do not unacceptably restrict the forward visibility of drivers or the flow of traffic between the site and the town centre. Parked vehicles also aid safety as they tend to make drivers more cautious and reduce their speed.
14. I noted that the traffic is often halted by buses stopping for passengers or the refuse vehicle making its rounds. I was also told that coaches regularly stop on the narrow section of Sychnant Pass Road outside the Youth Hostel as the entrance does not facilitate their entry to the site. Episodes such as these do restrict the flow of traffic and result in vehicles progressing in a group rather than singly along the road. However, this would continue to occur whether or not the development went ahead.
15. Using 85th percentile trip rates from the TRICS database the Appellant estimated the vehicle traffic generated by the development would be approximately 72 in the AM peak and 76 in the PM peak. It was generally accepted that this would average around one vehicle per minute. In analysing the scheme, the Transport Statements confirmed that the highway network between the site and the town centre would operate well within capacity. In reaching this conclusion account had been taken of the traffic flows from the development and the Anwyl housing site where 31 dwellings are currently under construction.
16. Whilst the highway officers of the Council were satisfied with the conclusions reached in the Transport Statements, the Council in its evidence to the Inquiry contended that the modal split with regard to pedestrians did not fit with the census data on vehicular trips, the results of recent pedestrian surveys in the area and the availability of public transport in the AM peak. In reviewing the Appellant's figures, the Council considered that the AM and the PM peak hour vehicle trips would be 103 and 90 representing an increase of 31 and 14 vehicles respectively over the Appellant's figures. It was accepted that this would equate to approximately one vehicle movement per dwelling in the peak period. The Council was unable to cite any guidance which recommends the methodology it had used or provide evidence of this level of activity elsewhere.
17. I have reservations about the reliability of the Council's figures in comparison with those of the Appellant which are based on a generally robust and recognised method and figures which have previously been accepted by the Council's technical officers. Overall the evidence does not persuade me that the Transport Statements were

incorrect in their assessment that there is capacity in the road network between the site and the town centre to satisfactorily accommodate the traffic which would be generated by the development.

18. Concerns were raised with regard to the sustainability of the site and whether in terms of its location residents would be deterred from using modes of transport other than the car. I accept that the local bus service along Sychnant Pass Road and Parc Sychnant would not be available to residents until the end of the peak AM period. Nevertheless it is a regular service throughout the day and within easy reach of the site. There are also other bus and rail services available in the town. Whilst the parties cited conflicting guidance in respect of acceptable walking distances to town centres, a person's inclination to walk or cycle will be dependant not only on distance but the nature of the route. In this instance the gradient and the lack of a continuous footway along Sychnant Pass Road could act as a disincentive to residents to walk or cycle to the town centre. Nevertheless there is evidence that people do choose to walk and cycle.
19. In an attempt to improve the links between the site and the town centre the Appellant has submitted seven schemes involving off-site highway works for consideration which are addressed in more detail below. They would introduce footways, priority flows and traffic calming measures along various sections of the local highway. The design of the schemes would need to satisfy highway regulations and the detail could therefore change. Financial contributions towards all but one of these schemes form part of the agreement entered into by the Appellant and the Council under Section 106 of the Town and Country Planning Act, 1990 (S106).
20. The illustrative layout places the access close to the 30 mph sign and drivers entering or leaving the site could potentially encounter drivers travelling at speed from the east. The submitted drawings which showed the access in more detail did not fully satisfy the Council's officers that the required visibility could be achieved by the cutting back of overhanging vegetation and the removal of two trees. To address these concerns the Appellant, as Scheme 1, has proposed a 40 mph speed limit reduction 'buffer' zone on the eastbound approach to the existing 30 mph limit outside the site and potentially at the other end of the existing derestricted limit on the approach to Dwygylchi. The introduction of a buffer zone was welcomed by the Residents Group and having seen the stretch of road and the potential location of the access, I agree with the Council that any residual risk should be addressed.
21. It is accepted that some of the traffic generated by the development would turn west out of the site onto Sychnant Pass Road towards Dwygylchi. This route is narrow in places and characteristic of rural roads it is largely without footways. I understand the concerns regarding pedestrian safety and as part of the road forms a route to school the potential buffer zone on the approach into Dwygylchi would be a benefit.
22. The submitted plans indicate a footway framing the access onto Sychnant Pass Road and extending to the eastern boundary. It was agreed that it would be necessary as part of the development and in the interests of the highway safety of future residents to extend the footway along Sychnant Pass Road to Gorlan. I am satisfied that these works, identified as Scheme 2, could be controlled by condition and would also benefit the residents of Parc Sychnant.
23. Schemes 3 and 5 propose the construction of a new footway on sections of Sychnant Park Road where they do not currently exist. As the residual width of the carriageway would prevent two-way traffic, there would be formalised single track working where

priority would be assigned to eastbound vehicles in Scheme 3 and westbound in Scheme 5. Both schemes show an optional passing place. The main concerns in respect of both schemes were the level of forward visibility for drivers of oncoming vehicles, the potential for queues of vehicles to develop and, in respect of Scheme 3, whether the layout would enable residents to reverse out of the driveways to residential properties.

24. During my various site visits I considered the forward visibility available to drivers on both stretches of road. In respect of Scheme 3 I am satisfied that drivers would have sufficient forward visibility to give priority to vehicles travelling from the west and that reversing out of the various driveways could still be accomplished.
25. Scheme 5 is complicated by the proximity of the junction of Sychnant Pass Road with Cadnant Park and the on-street parking to the east. Cadnant Park is part of the bus route with buses turning right out of Cadnant Park onto Sychnant Pass Road. Visibility is restricted in this direction by a stone boundary wall and the drawings submitted to the Inquiry of the vehicle swept path indicate the extent to which drivers would cross the centre line in negotiating this junction if Scheme 5 was implemented. However the degree of visibility at the junction would not alter as a result of Scheme 5 and I am not persuaded by my observations on site that the extent to which bus and car drivers would cross the centre line would differ markedly from at present.
26. I am also satisfied that forward visibility would be acceptable. In the event of vehicles confronting approaching vehicles the passing bay would provide refuge. I have noted the concerns of the opposing parties with regard to the length of the highway over which these priority schemes would operate. I visited a similar scheme at Marl Drive, Llandudno Junction where I found the visibility of approaching vehicles was no greater than would be present in Schemes 3 and 5 which adds weight to my findings.
27. I accept that in respect of both schemes delivery and refuse vehicles may halt the flow of traffic if they stop within the carriageway. However the provision of a passing place would address such situations and as I observed during my accompanied site visit, this currently occurs on the section subject of Scheme 5 and on other parts of the highway. The proximity of the two schemes and the differing directions of priority were also raised. However, I have no evidence that these are features which could make the schemes unworkable.
28. Scheme 6 would introduce a new footpath on Upper Gate Street and St Agnes Road at the junction with Sychnant Pass Road which is close to the town walls. The vertical and horizontal alignment of the junction is not ideal and the current arrangements require pedestrians to cross to an area where vehicles are parked before continuing along the pedestrian route through the town walls. Although the retention of some parking is proposed the effect this would have on the visibility of pedestrians for drivers exiting the town walls was highlighted during my accompanied site visit. Whilst the number of parking spaces may need further consideration as part of the detailed design, overall the scheme would benefit pedestrians.
29. The implementation of Schemes 2, 3, 5 and 6 together with the existing infrastructure would create a continuous footway link between the appeal site and the town centre. This would be of benefit to and encourage future occupants of the development and existing residents to walk to the town centre. Whilst I acknowledge that the schemes may not provide a perfect solution as some of the footways would still be restricted in width, it would address many of the concerns regarding highway safety and I am not persuaded that it would result in significant congestion.

30. The Appellant also put forward Schemes 4 and 7 which would provide traffic calming on Cadnant Park and a new footway link on Mill Hill respectively. The Council did not consider these schemes to be necessary. Cadnant Park is part of a bus route and whilst traffic calming would reduce the speed of traffic I found visibility of oncoming road users to be adequate. I do not consider the proposed traffic calming would increase the overall safety of users of this section of the highway network.
31. I acknowledge that Cadnant Park is used by children walking to Ysgol Aberconwy and their route may take in the short section over the railway which is narrow and has no footway. However these features together with the tight bend on the approach to the bridge reduce the speed of approaching traffic. There is also an alternative route via Mountain Lane using the pedestrian bridge over the railway. Having walked this route I am satisfied that it provides a suitable alternative for pupils, several of whom I saw using it during my visit.
32. The safety of Sychnant Pass Road for pupils walking to school was raised and the validity of the comments made by the Council's technical officers was questioned by the Residents Group. Correspondence from the Road Safety Officer indicates that Sychant Pass Road to Cadnant Park has been assessed for its suitability as a route for pedestrians and confirmed that if it was to be considered for an education route assessment there would be no highway safety issues which would be detrimental to this route. I consider this to be confirmation that this section of Sychnant Pass Road is suitable for pedestrians.
33. Mill Hill is also devoid of a footway along part of its length and forms part of the route through to Llanwrst Road where there is a convenience store and Ysgol Porth-y-Felin. Whilst this is a route which may be used by future residents of the development, the convenience store in the town centre would be equally accessible to the appeal site and there are alternative routes to Ysgol Porth-y-Felin which include the link from Pen Garth and the alternative entrance via the steps close to the town walls and Scheme 6. I therefore do not consider that either Scheme 4 or Scheme 7 are required to make the development acceptable.
34. Concerns were raised regarding the junction of Mount Pleasant with Sychnant Pass Road and I saw evidence of damage to the boundary wall from vehicles negotiating the junction. Mount Pleasant is narrow on this section and I noted during my site visit that the refuse collection vehicle blocked the carriageway and caused some congestion for several minutes. There is restricted visibility for drivers at this junction as well as at the junctions from Old Road and Cadnant Park onto Sychnant Pass Road. However, these are historical with no identified potential for improvement. Furthermore, on the evidence before me, I do not consider that the traffic generated by the development would unduly exacerbate the existing situation.
35. I also noted the potential for vehicles to queue at the northern end of Mount Pleasant at the junction with Town Ditch and Bangor Road as it emerges through the town walls. I have had regard to the criticisms made by the Council of the Appellant's VISSIM model and I observed the traffic using this junction on several occasions and at different times. I accept that at times the junction is busy and the current layout may not be ideal. The Appellant outlined changes which would be made to the road markings and minor adjustment of the kerb lines which would improve capacity. Nevertheless I am not persuaded that the traffic generated by the development would cause an unacceptable increase in the number of vehicles using this junction.

36. I have noted the appeal¹ drawn to my attention by the Council. Whilst it raised issues of highway safety, the scale of the development was much larger than the proposal before me. Also from the written descriptions given in the decision I am satisfied that there were significant differences in terms of the highway network. On the evidence before me I do not consider that the two cases are directly comparable.
37. I am also aware that the appeal site was considered but rejected as being unsuitable for inclusion in the LDP as a residential site. The Council has cited the Atkins Report which highlighted concerns with regard to the local highway network which it considers are still valid. However, the Council's Site Deliverability Assessment, 2012 which formed a revised background paper to the LDP recognised these concerns and stated that measures were proposed which would improve safety and travel choice. It recorded no objection from the Council's highway officers. In assessing the suitability of the site for inclusion in the LDP the Council considered the site scored relatively highly in the ranking of Conwy sites. However, it was not proposed to allocate the site as other sites were considered to be better related to the settlement and less constrained to meet housing need. I am satisfied that the exclusion of the site from the LDP was not on highway safety grounds. In any event I have reached my decision on my analysis of the evidence before me which contains greater detail than that considered as part of the LDP.
38. The proposed development would generate increased traffic which would use Sychnant Pass Road in accessing the town centre and more distant destinations. Whilst the road is already well used, I am satisfied by the evidence that it has the capacity to accommodate the increase in traffic as a result of the development. Furthermore, I consider that the site is sufficiently well connected that some of the future residents of the development would choose to travel by non-car modes.
39. However, I am concerned that the most direct route to the town centre is devoid of footways in places and I consider that the provision of such facilities would improve the safety of pedestrians both from the proposed development and other residential areas off Sychnant Park Road making walking a more attractive option for shorter journeys in accord with the Active Travel (Wales) Act 2013 and PPW 9 (8.2.1). On this basis I conclude that the development would not be detrimental to highway safety and would be in accordance with Policy STR/1 of the LDP and Technical Advice Note (TAN) 18: Transport which seek to ensure that new development is located where there is convenient access by public transport, walking and cycling.

Other material considerations

40. Other matters raised by the Residents Group to which I have had regard as material considerations include the principle of the development and its effect on landscape character, visual amenity, the Welsh language, tourism, the living conditions of local residents and local services and facilities.

The principle of the development

41. The aim of the planning system as set out in paragraph 2.1.1 of PPW 9 is to make planned provision for an adequate and continuous supply of land to meet society's needs in a way that is consistent with sustainability principles. Up to date LDPs are a fundamental part of the system and set the context for rational and consistent decision making in line with national policies. Planning applications must be

¹ Appeal Ref: APP/T2350/A/13/2194601 Waddington Road, Clitheroe

determined in accordance with the adopted plan unless material considerations indicate otherwise.

42. Each Council is required to maintain a 5-year supply of readily available housing land and TAN 1: Joint Housing Land Availability Studies indicates in paragraph 6.2 that the housing land supply figure is a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with local and national planning policies.
43. The Council is currently unable to demonstrate a 5-year supply. Whilst the Statement of Common Ground (SoCG) states there is a 4 year supply, the 2016 Joint Housing Land Availability Study (JHLAS) indicates that it has dropped to 3.7 years. In reviewing the reasons for the shortfall the Council indicated that it is assessing whether the LDP should be reviewed either in whole or in part. However, it is my understanding that this review is at an early stage and does not justify refusal of the appeal on grounds of prematurity.
44. Although the Council and the Residents Group raised concerns about the use of the residual method in calculating housing land supply, this is the approach advocated in TAN 1. The alternative approach recommended by the Residents Group based on average rate of completions may demonstrate a housing land supply in excess of 5 years, but to reach a decision based on a method not supported in TAN 1 would be unsound. I have also noted the reference by the Residents Group to new household projection figures based on the 2011 census which suggest a reduction in the number of dwellings needed. However, the housing requirement is set out in the LDP and any adjustment is a matter for a formal review of the plan and not as part of this appeal.
45. Whilst I accept that the proposed residential development of land outside the settlement boundary is not supported by Policies HOU/1 and HOU/2 of the LDP, the lack of a 5-year housing land supply carries significant weight in favour of the appeal. Furthermore, the provision of a range of 2, 3 and 4 bedroomed properties of which 30% would be on an affordable basis would be a significant benefit particularly as the Appellant has indicated the site would be brought forward quickly and is agreeable to a foreshortened time for commencement on site.

The effect on landscape character

46. The Landscape and Visual Assessment (LVA) submitted as part of the application was criticised by the Residents Group on the grounds that it was inadequate and a full Landscape and Visual Impact Assessment (LVIA) was needed. However, as the application was made in outline with no firm details of the site layout or the dwellings any analysis undertaken as part of an LVIA would have been based on supposition. In an attempt to overcome the concerns of the Residents Group the Appellant submitted additional detail as part of its appeal evidence. This included photomontages from viewpoints agreed with the Residents Group. No concerns with regard to the content of the LVA were expressed by the Council or any of the relevant statutory consultees. Having considered the evidence and inspected the site and its surroundings I am satisfied that in this instance the LVA is sufficient to allow a reasoned decision to be reached on the proposal.
47. In the Register of Landscapes of Outstanding Historic Interest in Wales (the Register) the boundary of the Creuddyn and Conwy Landscape of Outstanding Historic Interest

is shown to run through the appeal site. However, the site falls wholly within the Rolling Meadows, west of Afon Conwy Historic Landscape Character Area (HLCA). I have noted that in the previous archaeological assessment carried out in 2011 the site was recorded as being some distance outside the Creuddyn and Conwy Landscape of Outstanding Historic Interest and that only as a result of more detailed work had the boundary been shown to be through the middle of the appeal site.

48. However, the revised boundary does not follow any existing or ancient boundary and the Assessment of Significance of Impact of Development on Historic Landscape Area (ASIDOHL) which accompanied the planning application considered that its placement was likely due to the different scales on which the boundary lines were drawn. It was on this basis that the ASIDOHL considered the site to be outside the Landscape of Outstanding Historic Interest. Although the Residents Group did not agree with this approach, the Council together with Cadw, Snowdonia National Park Authority (SNPA) and Natural Resources Wales (NRW) accepted it. The guidance² on this matter highlights that as the Register is non-statutory the extent of the landscape areas and the Historic Character Areas are indicative and advisory. Having had regard to these matters I am satisfied with the approach taken in the ASIDOHL.
49. I am aware that in respect of an application made in 2008 the SNPA and Countryside Council for Wales (now NRW) considered residential development on the site would harm the landscape. However, the current proposal is for a reduced number of dwellings and properties have been omitted from some parts of the site. The scheme is therefore different from the previous proposal and I do not agree with the Residents Group that direct comparisons can be drawn between the two proposals. The Residents Group also questioned the change in the stance taken by SNPA and NRW following additional information submitted during the current application. I have no evidence to suggest that in their latest responses SNPA and NRW have not provided sound advice that aligns with their statutory duties.
50. Whilst the appeal site is not subject to any statutory landscape designations, it lies to the south and east of Snowdonia National Park (SNP), the boundary at its closest being diagonally opposite the north western corner of the site and to the north of Sychnant Pass Road. The site falls within the Conwy Valley Special Landscape Area (SLA). However, it is clear from Policy NTE/4 of the UDP that this designation does not prohibit development but requires that it should be '*capable of being satisfactorily integrated into the landscape*'.
51. The proposed development would significantly alter the character of the site from an open landscape to an extension of the existing townscape to the east. At present the stark contrast between the two land uses is highlighted by the rigid boundary line which encompasses a high point in the local topography and is marked by various types of residential urban style fencing and ornamental planting.
52. Although in illustrative format, the submitted layout of the development seeks to use the natural topography of the site with access roads and dwellings arranged along the contour lines. The accompanied site visit made in the light of the evidence put before me facilitated a full appreciation of the relationship of the layout to the wider landscape. It also raised concerns in my mind regarding the southern extent of the dwellings into a part of the site elevated above the existing properties to the east and

² The Guide to Good Practice on Using the Register of Landscapes of Historic Interest in Wales in the Planning and Development Process, Cadw 2007, paragraph 7.1

the location of the area of open space with potentially little opportunity for overlooking from proposed or existing dwellings to the detriment of the safety of its users.

53. However, the opportunity exists at the detailed stage to address these matters and ensure the layout and the scale and design of the dwellings sit satisfactorily within the landscape. The detailed soft landscaping would also enable the integration of the development into the existing townscape of Conwy, particularly in elevated views from the north and west where the existing built development provides a visual backdrop to the appeal site. The proposal would also bring the built development to a natural boundary which, if supplemented with additional planting, would form a natural and defined edge to the settlement.
54. Whilst the development would result in the loss of open land, I do not consider the site typical of the quality of the wider landscape. The development would appear as a noticeable new component in the landscape but in my opinion would amount to a minor loss of a landscape element with a low magnitude of change. The opportunity exists at the reserved matters stage to ensure that through the detailed design the development would be successfully integrated into its surroundings. On this basis I consider the development would conserve the attributes of the SLA as required by Policy NTE/4 of the UDP and not result in unacceptable harm to the setting of the SNP.
55. Turning to visual amenity, the most sensitive receptors are the residents of the dwellings which adjoin the eastern boundary of the site. The occupants of these properties currently experience clear open views of the appeal site either through or above the existing boundaries of fencing or vegetation. There are also longer distance views towards the higher land to the west and north. These receptors would experience the greatest degree of visual change whereby the transformation from a pastoral to a built development in their immediate view would have an adverse impact on visual amenity. However, careful consideration during the detailed design of the layout and scale of the dwellings and their relationship to the existing properties would reduce the overall effect to one which would not cause an unacceptable degree of harm to visual amenity.
56. Receptors using local public rights of way would also be sensitive to the development. Those walking the footpaths through the site currently experience open views across the landscape which are only curtailed by the existing residential properties. Although the routes would be through a residential development, the path which crosses the site north to south would be contained within the landscape strip alongside the main access road and would continue to be bounded to the west by open land.
57. Moreover, the footpath which passes from west to east would cross the area of open space with only a relatively short distance going through the built development. It is highly likely that the route would be along the access road which would not be as enclosed as the section immediately adjoining the site to the east and the primary view would be towards the open land to the south and west. Although the nature of the routes would alter I do not consider the effect on receptors would be significant. I have noted the concerns of the Residents Group regarding the steepness of the route where it leaves the existing development. However, accessibility of the path to all receptors is a matter which would be addressed at the detailed stage.
58. From the publicly accessible higher land of the SNP to the north and west, which includes the North Wales Coastal Path on Conwy Mountain and Castell Caer Lleion Scheduled Ancient Monument, receptors enjoy expansive and elevated views over a wide area including Conwy, Llandudno Junction and beyond. Whilst in many of these

views the appeal site can be identified, it is a small component in the wider landscape and is not the primary focus of the view. The change in the landscape as a result of the development would alter the view, but given the distance of many of the viewpoints from the site and its setting in the wider landscape, I consider that the effect on visual amenity would be slight.

59. In closer views from Sychnant Pass Road the development has the potential to create a more prominent feature in the landscape. However, in approaching the site from the town centre the development would only be seen for a short distance beyond the existing built development. Although for receptors travelling from the west the views would be intermittent, the development would be seen from the road in the immediate vicinity of the site. The existing built development is a prominent feature at the entrance to the settlement and there is the potential that the development would be too. However I am satisfied that with a carefully designed scheme, where landscaping plays an integral part, the development could be successfully absorbed into the landscape with little effect on the visual amenity of receptors using Sychnant Pass Road and those viewing the site from other vantage points in the surrounding area.
60. On this basis I consider that the proposal could be satisfactorily assimilated into its surroundings and on this basis would not cause unacceptable harm to visual amenity.

Effect on the Welsh language

61. The Welsh language is part of the social and cultural fabric of Wales and the Welsh Government is committed to ensuring that it is supported and encouraged to flourish. As identified in TAN 20: Planning and the Welsh Language the future of the language across the whole of Wales depends on a wide range of factors, including education, demographic change, community activities and a sound economic base to maintain thriving sustainable communities. It states in paragraph 1.6.3 that the land use planning system should where feasible and relevant contribute to the future well-being of the Welsh language by establishing the conditions to allow sustainable communities to thrive. However, it is also necessary to ensure that decisions on applications for planning permission *'must not introduce any element of discrimination and should not be made on the basis of any person(s)' linguistic ability*³.
62. Although the adequacy of the submitted Community and Linguistic Impact Assessment was questioned by the Residents Group, it was accepted by the Council. Menter Iaith Conwy and the Welsh Language Technical Group did not object. Furthermore the proposed mitigation in supporting the costs of Welsh language provision through courses for future residents would help promote the language.
63. I have noted the recent experience of the Appellant in respect of a housing site at Llandudno Junction. On the first phase of this development 90% of the properties were sold to people currently residing within the county of Conwy. Whilst there is no certainty that this pattern would repeat itself on the appeal site, there is no compelling evidence that many of the future occupants of the proposed development would not be from the local area. The proposal would assist in meeting the demand for housing from local people who reflect the linguistic profile of the host community and might otherwise move away due to the lack of appropriate housing.
64. I therefore conclude that the development would not significantly harm the character and linguistic balance of the community in accord with Policy CTH/5 of the UDP.

³ paragraph 4.13.5 of Planning Policy Wales, Edition 9

Effect on tourism

65. Conwy is a notable tourist destination and the SNP is also a principal attraction. It is important to protect these traditional attractions and facilities as tourism makes a vital contribution to the local economy. The aspects of the proposal which the Residents Group considered would most likely affect tourism are its effect on the local highway network and visual amenity. Given the conclusions I have already reached with regard to these matters I do not consider that the proposal would have an adverse effect on tourism.

Effect on living conditions

66. I visited two properties during my accompanied site visit to assess the effect of the development on the living conditions of local residents with an outlook towards the site. I found that there is the potential for overlooking of nearby dwellings from the proposed properties particularly from first floor windows which could give rise to loss of privacy. However, there is no reason why through a sensitive design these issues could not be satisfactorily addressed as part of the reserved matters.

Effect on local services and facilities

67. I understand the concerns of the Residents Group with regard to the ability of local doctors, dentists and schools to cope with the additional population the development would generate. I have noted the letter from the Betsi Cadwalader University Health Board in response to the application which identified potential difficulties in providing care services to a significant number of additional patients. However, I have no substantive evidence that local services and facilities could not accommodate residents of the development and in the light of the need to provide homes this objection does not justify withholding permission.

Sustainable development

68. The Well-being of Future Generations (Wales) Act 2015 (WCFG Act) places a duty on public bodies that they must carry out sustainable development. Sustainable development is defined in the WCFG Act as 'the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals'. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the WCFG Act.

Conditions

69. I have considered the list of suggested conditions agreed between the Council and the Appellant in the light of the discussion at the Inquiry and WG Circular 016/2014 The Use of Planning Conditions for Development Management. I have imposed the standard conditions in respect of outline permissions confirming the matters which require approval. In view of the current housing land supply the time limits for the submission of reserved matters and the commencement of the development are shorter than normal. In order to ensure compliance with national and local policy in respect of the provision of a mix of housing the condition sets out the detailed requirements for affordable housing.

70. There are several trees on the site which have features that make them suitable for bats and the hedgerows may offer foraging habitat as well as being suitable for

nesting bird species. Whilst most of the trees would remain, two are identified for removal in order to provide the access in the position indicated in the illustrative layout. The significance of these trees to bats has to be established before work commences and, if appropriate, the removal of the trees be mitigated. In the interests of protected species and biodiversity, the timing of works affecting trees, shrubs and hedgerows is restricted.

71. Whilst the site does not lie close to the core areas of the SNP which are of the quality to meet Dark Skies Reserve status, the cumulative effect of night time lighting from settlements needs to be controlled to ensure the tranquillity of the upland edges of Snowdonia is conserved. The local landscape contains evidence of highly diverse land use and settlement from an early prehistoric period. Conwy Mountain contains historic artefacts including an Iron Age Hill Fort. In view of the history of the landscape the potential for archaeological remains to be uncovered on the appeal site has been identified. A programme of archaeological work is therefore required in order to allow the historic interest in the site to be recorded.
72. In order to ensure the satisfactory drainage of the site, the approval of foul and surface water details is needed. In view of the concerns regarding the local highway and in order to protect the living conditions of local residents the construction phase of the development is required to be controlled. Furthermore the new footway between the site and Gorlan is identified and the timing of the internal roads and provision of the area of open space is established. Finally a condition is imposed which requires various off-site highway works referred to earlier and addressed below.
73. Whilst the suggested conditions in respect of layout, materials and landscaping help clarify the requirements of Condition 1, they essentially duplicate the need to submit details and I consider them to be unnecessary. In particular, the condition regarding layout seeks to broadly tie the scheme to the illustrative details provided on access and layout on which I have raised some minor concerns. Whilst the illustrative details show that there is a broadly acceptable way of developing the site, it does not mean that there may not be an equally acceptable alternative. Furthermore the Council has the ability to reject the detailed layout if it is found to be unacceptable at the reserved matters stage.

Section 106 Agreement

74. In assessing the S106 Agreement it is necessary to consider the key legal tests set out in Regulation 122 of the Community Infrastructure Levy Regulations, 2010. These state that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. In assessing the Agreement I have also had regard to Circular 13/97 Planning Obligations and the Council's Supplementary Planning Guidance LDP4: Planning Obligations. The Council confirmed that there is no issue with regard to the pooling of contributions in relation to any of the obligations.
75. In addition to the highway improvement schemes detailed earlier, the S106 Agreement also provides financial contributions towards Welsh language initiatives; the provision, maintenance and improvement of open space; waste management and recycling; the provision, maintenance and improvement of allotments; and the improvement of libraries.

76. With regard to the various highway schemes, the Appellant contends that Schemes 3, 5 and 7 are not necessary to make the development acceptable due to the lack of accidents and the low level of additional pedestrian traffic. For the reasons I have already given, I am satisfied that Schemes 1, 3, 5 and 6 would meet the tests. I do not find Schemes 4 and 7 to be necessary to make the development acceptable or directly related to it. I have noted the Council's criticism of the contributions which may not cover the full costs of the individual schemes. However, the Council is a signatory to the Agreement which provides some flexibility for the Council to redistribute funds between schemes if necessary. The schemes would be subject of Traffic Regulation Orders, the outcome of which is unknown. Nevertheless it is important that the mechanisms are in place to ensure these works can be secured in the event that the development is carried out.
77. In my findings in respect of the effect of the development on the Welsh language I recognised that the proposed mitigation would help promote the language. The Agreement secures a contribution towards various Welsh language courses for future residents of the development and a Welsh-speaking youth worker. These actions would help support and sustain the long term well-being of the Welsh language as required by Policy CTH/5 of the LDP.
78. The provision of open space for all age groups is a necessary part of the development and whilst the illustrative layout shows the provision of neighbourhood open space, the provision of major open space is also required. The Agreement specifies the provision and retention of an equipped play area on the site and contribution towards off-site open space provision, improvement or maintenance in accord with the LDP. Allotments are an important community resource and there is the potential for demand to rise as a result of the development. The need for new allotments is recognised and provision is made in Policy CFS/10 of the LDP.
79. The waste contribution is to cover the capital costs of equipping the proposed dwellings with kerbside domestic waste and recycling containers. This is in line with Policies DP/1 and DP/3 of the LDP which seek to manage waste re-cycling and provide facilities for waste management. Public libraries are an important asset for the local community and I am satisfied that the size of the contribution is relative to the increased demand which would be placed on the service by the development.
80. For the reasons I have given I consider each of the contributions meets the tests with the exception of that allocated in the Fourth Schedule in respect of off-site highways contributions towards implementing Schemes 4 and 7. Given my findings Sections 1.3 and 1.6 of the Fourth Schedule to the Agreement (which deal exclusively with Schemes 4 and 7) do not form part of the Obligation.

Conclusion

81. I have found that there would be no detrimental effect on the highway network and highway safety and that the proposed mitigation would improve the current situation. I have also concluded that the development would not cause significant harm to landscape character and visual amenity or the Welsh language. I am also satisfied that the proposal would not be detrimental to tourism, the living conditions of existing residents and local services and facilities. The lack of a 5-year housing land supply and the need to increase the supply, the timeliness of the development and the provision of affordable housing all carry weight in favour of the appeal.

82. Balanced against these factors is the location of the site outside the settlement boundary where residential development is not normally permitted. Whilst this weighs against the appeal I do not consider it sufficient to outweigh the matters in its favour.
83. In reaching my decision, I have taken into account the ways of working set out at section 5 of the WCFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out as required by section 8 of the WCFG Act.
84. For the reasons given above and having had regard to all other matters raised, the appeal is therefore allowed.

Kay Sheffield
Inspector

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Martin Carter, of Counsel Instructed by Delyth E Jones, Solicitor to Conwy
County Borough Council

He called

Andrew Brookfield BSc DipTEP Transport Director, Capita
MIHT CMILT

Councillor Julie Fallon County Councillor for Deganwy

FOR THE APPELLANT:

David Manley, Queens Council Instructed by Matthew Gilbert

He called

Lee Kendall BA(Hons) MIHT Associate Director, SCP
MTPS

Julie Barr BA DipLA CMLI Principal of Tirlun Barr Associates

Matthew Gilbert BA(Hons) The Planning Consultancy
DipTP MRTPI MRICS

FOR THE RULE 6 PARTY: Parc and Llys Sychnant Residents Group:

John Hardy Local resident

David Ross Local resident

Philip Widdall Local resident

David Evans Local resident

Haydn Williams Local resident

INTERESTED PERSONS:

Councillor Joan Vaughan County Councillor for Conwy

Councillor Sara Allardice County and Town Councillor for Conwy

Councillor Goronwy O Edwards County Councillor for Caerhun

Councillor Anne McCaffrey County Councillor for Capelulo

John Harold Director, The Snowdonia Society

Sue Briscoe Local resident

Frank Greenwood	Local resident
Mary Edwards	Local resident
Patrick Barnard	Local resident
Shari Barber-Bailey	Local resident
Mike Waterworth	Local resident
Tamsin Lawrence	Local resident

DOCUMENTS

- 1 Map showing recorded accident locations submitted by the Appellant
- 2 TRICS data submitted by the Council
- 3 Statement in respect of Planning Obligations submitted by the Council
- 4 Statement and supporting photographs of recent traffic incidents submitted by the Residents Group
- 5 Opening statement of the Council
- 6 Opening statement made by the Residents Group
- 7 Series of photographs of traffic on Sychnant Pass Road submitted by the Residents Group
- 8 Photographs of traffic on Sychnant Pass Road submitted by a local resident
- 9 Representations submitted by Patrick Barnard, local resident
- 10 Representations submitted by Paul Barr, local resident
- 11 Representations submitted by Mathew Teasdale, YHA Conwy Manager
- 12 Representations submitted by Michael Boyes, local resident
- 13 Representations submitted by Maureen Lewis, local resident
- 14 Representations submitted by June Watkins, local resident
- 15 Representations submitted by John Healey, local resident
- 16 Decision in respect of Appeal Ref: APP/T2350/A/13/2194601
- 17 Statement made by Councillor Joan Vaughan
- 18 Plan showing bus route 27 submitted by the Council
- 19 Statement made by Councillor Sara Allardice
- 20 Representations submitted by Arfon Slater, local resident
- 21 Statement made by David Ross on behalf of the Residents Group

- 22 Statement made by David Evans on behalf of the Residents Group
- 23 Statement made by Phil Widdall on behalf of the Residents Group
- 24 Statement made by Haydn Williams on behalf of the Residents Group
- 25 Statement made by John Hardy on behalf of the Residents Group
- 26 Statement made by Councillor Anne McCaffrey
- 27 Representations submitted by Susan Kent, local resident
- 28 Drawing No SCP/07329/SK200 submitted by the Appellant
- 29 Drawing No. SCP/07329/F02 Rev D submitted by the Appellant
- 30 Representations submitted by Alison Shaw and Tony Franks, local residents
- 31 Representations submitted by Neil Bryson, local resident
- 32 Representations submitted by Ann Owen, local resident
- 33 Representations submitted by John Owen, local resident
- 34 Representations submitted by Linda Peel, local resident
- 35 Representations submitted by Peter Jordan, local resident
- 36 Representations submitted by Mr JKG and Mrs J Jones, local residents
- 37 Representations submitted by Mrs EA Hughes, Town Councillor and local resident
- 38 Representations submitted by Noel McCready, local resident
- 39 List of suggested conditions agreed between the Appellant and the Council
- 40 Signed Section 106 Agreement
- 41 Closing submissions on behalf of the Residents Group
- 42 Closing submissions on behalf of the Council
- 43 Closing submissions on behalf of the Appellant
- 44 Aerial map showing location of Marl Drive, Llandudno Junction, submitted by the Appellant

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Any application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
- 3) The development shall begin either before the expiration of two years from the date of this permission or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved);
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 5) No development (including any groundworks or site clearance) shall commence until a specification for a programme of archaeological work has been submitted to and approved in writing by the local planning authority. The development shall be carried out and all archaeological work completed in accordance with the approved specification.
- 6) No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the provision and implementation of a surface water regulation system, which is sufficient to limit any surface water to the equivalent Greenfield rate for the site, together with an approved timetable for its implementation. The scheme shall be implemented in accordance with the approved details prior to the residential use of the development and retained in perpetuity.
- 7) The development shall not begin until a detailed scheme for the external lighting of the development has been submitted to and approved in writing by the local planning authority. The scheme shall be designed to comply with the lighting standards for Environmental Zone E2 (Rural) set out in the publication "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011) from the Institute of Lighting Professionals and the guidance on Bats and Lighting set out in the "Bats and Lighting Research

Project, University of Bristol". The scheme shall include details of the phasing of the installation of lighting so as to ensure that the access to dwellings is appropriately lit before the dwellings are occupied. The external lighting shall thereafter be installed and retained in accordance with the approved details.

- 8) No existing trees shall be removed within the development site and on the adjoining highway frontage until their potential as bat roosts has been investigated and any necessary mitigation put in place, in accordance with a scheme submitted to and approved in writing by the local planning authority.
- 9) No removal or pruning of any trees, shrubs or hedgerows shall take place between the months of March to August inclusive, without the prior written approval of the local planning authority. Such approval will not normally be given unless it has been satisfactorily demonstrated that there are no birds nesting at the site.
- 10) The development shall not begin until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) the hours of construction work;
 - vii) measures to control noise from any generators, plant, machinery and equipment on site;
 - viii) measures to control the emission of dust and dirt during construction;
 - ix) a scheme for recycling/disposing of waste resulting from construction works; and
 - x) the hours of deliveries to the site.
- 11) No dwellings shall be occupied until the proposed new footways between Gorlan, Parc Sychnant and the development site have been completed in accordance with the plans and details to be approved under condition 1.
- 12) The roadways, visibility splays, footways and pedestrian link paths shall be laid out and completed in accordance with the details to be approved under condition 1 and the carriageway and footways shall be surfaced before the last dwelling hereby approved is occupied, or within two years of the commencement of development or site clearance, whichever is sooner, and retained in perpetuity, unless an alternative timeframe has been approved in writing by the local planning authority.
- 13) No dwelling hereby permitted shall be occupied until the estate roads, turning heads, footways, pedestrian link paths and street lighting leading to that dwelling have been provided, together with the car parking accommodation and turning areas for that dwelling, in accordance with the details to be approved under condition 1. The estate roads, footways, pedestrian link paths, street lighting, car parking accommodation and turning heads shall thereafter be retained in perpetuity.

- 14) The development shall not commence until a scheme for the provision of the public open space areas and equipped play space has been submitted to and approved in writing by the local planning authority. The scheme shall provide the detailed specification for the equipped play space and shall also include details of the phasing of the delivery of the open space areas, which shall be completed in accordance with the approved details, and its management thereafter. The public open space areas and equipped play space shall thereafter be retained in perpetuity and made available for public use.
- 15) The development shall not be commenced until details including arrangements for implementation and timing of the off-site highway works in respect of Schemes 1, 3, 5 and 6 shown for illustrative purposes on drawing references: SCP/07329/F07; SCP/07329/F02C; SCP/07329/F04C; and SCP/07329/F05 have been submitted to and approved by the local planning authority. The works shall be carried out in accordance with the details approved by the Council.

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